

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	4:01CR274
	)	
Plaintiff,	)	<b>MEMORANDUM</b>
vs.	)	<b>AND ORDER</b>
	)	
WALTER B. JONES, JR.,	)	
	)	
Defendant.	)	

Defendant has filed motions for leave to proceed in forma pauperis (“IFP”) on appeal (filing 51) and for appointment of counsel (filing 52). Previously, in response to an inquiry from the clerk’s office, I ruled that Defendant was not permitted to proceed IFP on appeal because he had not been determined to be financially unable to afford trial counsel and had not filed a motion with supporting affidavit as required by Fed. R. App. P. 24(a)(1). Defendant’s notice of appeal was then transmitted to the Clerk of the United States Court of Appeals for the Eighth Circuit.

Defendant’s IFP motion is addressed to the Court of Appeals, and, accordingly, will not be ruled upon by this court. I will, however, direct the clerk to bring the motion to the attention of the Court of Appeals.<sup>1</sup> Defendant’s motion for appointment of counsel is addressed to this court, but properly should be addressed to the Court of Appeals. Accordingly, I will deny the motion for appointment of counsel without prejudice to its refiling in the Court of Appeals.

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<sup>1</sup> “A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4) [that the district court has found the party is not entitled to proceed IFP].” Fed. R. App. P. 24(a)(5).

IT IS ORDERED that:

1. The clerk of the court shall notify the Clerk of the United States Court of Appeals that Defendant has filed a motion for leave to proceed in forma pauperis on appeal (filing 51) that will not be ruled upon by this court because it is addressed to the Court of Appeals.
2. Defendant's motion for appointment of counsel (filing 52) is denied without prejudice to Defendant refiling the motion in the Court of Appeals.

DATED: September 7, 2005.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge